

## Article 2 General Provisions

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**ARTICLE 2 GENERAL PROVISIONS****2-1 Application and Prohibition****2-1.1 General Application**

All buildings and structures erected hereafter, all uses of land, water or buildings established hereafter, all structural alterations or relocations of existing buildings occurring hereafter, and all enlargements of, additions to, changes in and relocations of existing uses occurring hereafter shall be subject to all regulations of this Ordinance which are applicable to the zoning districts in which such buildings, structures, uses or land are located. Existing buildings, structures and uses which comply with the regulations of this Ordinance shall likewise be subject to all regulations of this Ordinance.

Existing lawful buildings, structures and uses which do not comply with regulations herein shall be subject to Section 11-4 of this Ordinance relating to nonconformities.

**2-1.2 General Prohibition**

No building or structure, no use of any building, structure or land, and no lot of record now or hereafter existing shall hereafter be established, altered, moved, diminished, divided, eliminated or maintained in any manner except in conformity with the provisions of this Ordinance.

**2-2 Compliance with Chapter Required****2-2.1. Compliance with chapter generally.**

1. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be constructed, except in conformity with all of the regulations specified in this Ordinance for the district in which it is located.

2. No building or other structure shall be erected or altered:

- 1) To exceed the height or bulk specified in this Ordinance.
- 2) To accommodate or house a greater number of families than permitted by this Ordinance.

- 3) To occupy a greater percentage of lot area than specified in this Ordinance.
- 4) To have narrower or smaller rear yards, front yards, side yards, or other open space than required by this Ordinance.
- 5) In any other manner contrary to the provisions of this Ordinance.

2-2.2. Compliance with Ordinance in issuance of permits and licenses.

All departments, officials and public employees of the Town vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Ordinance. They shall issue permits or licenses for uses, buildings or purposes only when they are in harmony with the provisions of this Ordinance. Any such permit or license, if issued in conflict with the provisions of this Ordinance, shall be null and void.

## **2-3 Exemptions**

The following are exempt from this Ordinance:

2-3.1 Electrical transmission lines of 150 kV or more, approved by the State Corporation Commission.

2-3.2 Poles, wires, cables, conduits, vaults, laterals, pipes, valves, meters or any other similar equipment when used for the purpose of distributing service to individual customers within an approved or established service area, but not including telecommunications towers, plants or substations.

2-3.3 The height limitations of this Ordinance shall not apply to cupolas, barns, silos, farm buildings, chimneys, flag poles, water tanks, and monuments and necessary mechanical appurtenances not exceeding in height the distance therefrom to the nearest lot line.

## **2-4 ~~Effect of Chapter on Existing Plans, Permits, Lots and Districts~~**

~~Nothing contained in this chapter shall require any change in the plans or construction of any building or structure for which a permit was granted prior to \_\_\_\_\_. If construction is discontinued for a period of six (6) months, further construction shall be in conformity with the provisions of this chapter for the district in which the operation is located.~~

**2-4 Public Facilities Manual**

- 2-5.1 The Town of Warrenton Public Facilities Manual, as amended by Town Council of the Town of Warrenton, is hereby incorporated herein by reference in the Zoning and Subdivision Ordinances as though set out in full herein.
- 2-5.2 All utility systems shall be designed and constructed in accord with the Town of Warrenton Public Facilities Manual.

**2-5 Zoning of Annexed Territory [old 2-13]**

- 2-5.1 Any property annexed or boundary adjusted into the corporate limits, hereinafter referred to as the “annexed property”, which was zoned in Fauquier County for a density more intense than one (1) dwelling unit per acre, after the effective date of the Zoning Ordinance shall immediately upon the effective date of such annexation or boundary adjustment be reclassified to the R-1 Zoning District pursuant to Article 3 of the Zoning Ordinance.
- 2-5.2 Notwithstanding the foregoing, if the annexed property was zoned in Fauquier County with a density equal to or less intense than one (1) dwelling unit per acre, the annexed property shall immediately upon the effective date of such annexation or boundary adjustment be reclassified to the R-E Zoning District, pursuant to Article 3 of this Zoning Ordinance.
- 2-5.3 Notwithstanding the provisions of paragraph 2-5.1 and 2-5.2, if the annexed property was zoned in Fauquier County to a commercial district, the annexed property shall immediately upon the effective date of such annexation or boundary adjustment be reclassified to the C Zoning District pursuant to Article 3 of the Zoning Ordinance.
- 2-5.4 The Planning Commission shall prepare and present a recommended zoning classification of any annexed property to the Town Council within twelve (12) months of the effective date of such annexation or boundary adjustment.

**2-6 Calculation of Density**

- 2-6.1 Maximum Density. The maximum density specified in this Ordinance for a given zoning district shall not be exceeded. Calculations of development density, including lot, lot area, parent tract, net and gross density for residential development, floor area ratio for non-residential development density, and other such terms, shall be made in accord with the formulas provided within the definitions of those terms in Article 12 of this Ordinance.
- 2-6.2. Calculations of allowable floor area ratio shall be based upon the floor area ratio as established by the zoning district in effect for the site at the time of approval of a site plan by the Town.

**2-7 Authorization for Constructing Public Facilities**

No public facility shall be constructed, established or authorized unless and until it has been reviewed and approved by the Planning Commission as provided by Section 15.2-2232 of the Virginia Code, as being in substantial accord with the Town's adopted Comprehensive Plan.

Repair, reconstruction, improvement and normal, minor service extensions of public facilities or public corporation facilities, unless involving a change in the location or extent of a street or public area shall be deemed to be in accordance with Section 15.2-2232 of the Virginia Code. For purposes of this section, widening, extension, enlargement or change of use of public streets, public facilities or public areas shall not be excepted from the requirement of review for Comprehensive Plan conformity.

**2-8 Provisions Are Minimum Requirements**

The provisions of this Ordinance shall be the minimum requirements to promote and the public health, safety and general welfare.

**2-9 Interpretation of Terms**

For the purpose of this Ordinance, certain words and terms are to be interpreted as defined in Article 12.

In case of any dispute over the meaning of a word, phrase or sentence, whether defined in this Ordinance or not, the Zoning Administrator is hereby authorized to make a definitive determination thereof, being guided in such determination by the purposes and intent of this Ordinance, as set forth in Article 1; provided, that an appeal may be taken from any such determination as provided in Article 11 of this Ordinance.

**2-10 Uses Not Permitted are Prohibited [old 2-11 and 6-4]**

For the purpose of this Ordinance, permitted uses are listed for the various districts. Unless it is otherwise clear from the context of the lists or other regulations of this Ordinance, uses not specifically listed are prohibited.

In case of any dispute as to whether a use is permitted in any district, the Zoning Administrator is hereby authorized to make a definitive determination thereof, being guided in such determination by the purposes and intent of this chapter, as set forth in Article 10 and by the purposes and intent of the particular district, provided that an appeal may be taken from any such determination as provided in Article 11 of this Ordinance.

**2-11 Adding Unspecified Uses**

Uses other than those allowed in the applicable district may be added to a district only upon adoption of a text amendment approved by the Town Council, pursuant to the amendment procedures set forth in Article 11 of this Ordinance.

**2-12 Zoning Map and District Boundaries**

2-12.1. The Town is divided into the Zoning Districts set forth in Article 2, and defined in Articles 3 of this Ordinance, and as shown on the map entitled “Zoning Map, Town of Warrenton, Virginia”, together with all explanatory matters thereon.

2-12.2. The Zoning Map shall be located in the office of the Zoning Administrator and shall be the final authority as to the current zoning classification of land and water areas, buildings and other structures in the Town except for subsequent amendments enacted by the Town Council and not yet officially recorded on said map.

2-12.3. No changes of any kind shall be made to the Zoning Map except in conformity with the procedures and requirements of this Ordinance.

2-12.4. Determination of district boundaries.

Unless district boundary lines are fixed by dimensions or otherwise clearly shown or described, and where uncertainty exists with respect to the boundaries of any of the districts as shown on the zoning map, the following rules shall apply:

2-12.4.1. Where district boundaries are indicated as approximately following or being at right angles to the center lines of streets, highways, alleys or railroad main tracks, such center line of the right-of-way or prescriptive easement or lines at right angles to such center lines shall be construed to be such boundaries, as the case may be.

2-12.4.2. Where a district boundary is indicated to follow the shoreline of a river, creek, branch, pond, lake or other body of water, such boundary shall be construed to follow the shoreline at low water or at the limit of the jurisdiction, and if there is a change in the shoreline, such boundary shall be construed as moving with the actual shoreline. Where a district boundary is indicated to follow the centerline of

a river, creek, branch or other body of water, such boundary shall be construed to follow the centerline at low water or at the limit of the jurisdiction, and if there is a change in the shoreline, such boundary shall be construed as moving with the actual shoreline.

2-12.4.3. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

2-12.4.4. If no distance, angle, curvature description or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the zoning district shall be determined by the use of the scale shown on the zoning map.

2-12.4.5. If uncertainties continue to exist after the other provisions of this section are exhausted, the question of the property's zoning district shall be presented to the Zoning Administrator for interpretation and be so noted on the Map. In case of subsequent dispute, the matter may be appealed to the Board of Zoning Appeals in accord with the procedures set forth in Article 11.

## **2-13 Methods of Measuring Lots, Yards and Related Terms**

### 2-13.1. Regular lots, width measurements

The width of a regular lot shall be determined by measurement across the lot at the depth of the required front yard or building setback line. The distance between side lot lines at the points where they intersect with a street line (front lot line) shall be not less than eighty percent of the required width of the lot.

However, in cases where lots front on curved or circular (cul de sac) streets, the radii of which do not exceed ninety feet, the distances between side lot lines where they intersect with the street line (front lot line) may be reduced to sixty percent of the required lot width, measured in a straight line between the points where side lot lines extended intersect the street line. Lot width shall be measured only along continuous frontage facing one street.

### 2-13.2. Regular lots, determination of front yard

2-13.2.1. On regular interior lots, the front shall be construed to be the portion nearest the street or access road.

2-13.2.2. On regular corner lots, the front shall be construed to be the shortest boundary fronting on a street. If the lot has equal frontage on two or more streets, the front lot shall be determined and shown on the subdivision plat or site plan.

2-13.2.3. On regular through corner lots, the front shall be construed to be the shorter boundary fronting the street, provided that if the shortest boundary fronting on a street is eighty percent or more of the length of the longest boundary fronting on a street, the applicant may select either frontage providing the lot width requirements are met.

2-13.2.4. On regular through lots, the front shall be construed to be the shorter boundary fronting on a street. If the lot has equal frontage on two streets, the front of the lot shall be determined and shown on all subdivision plats and site plans by the prevailing building pattern, or the prevailing lot pattern if a building pattern has not been established.

2-13.3. Regular lots, yards adjacent to street

2-13.3.1. Front yards of at least the depth required by setback requirements in the district shall be provided across the entire frontage of a regular lot.

2-13.3.2. Other yards adjacent to streets shall be provided across or along the entire portion of the lot adjacent to the street.

2-13.3.3. Rear yards on interior regular lots

Rear yards on interior regular lots shall be provided of at least the depth required for the district, and shall run across the full width of the lot at the rear. Depth of a required rear yard shall be measured in such a manner that the yard is a strip of land with minimum depth required by district regulations with its inner edge parallel with its outer edge.

2-13.3.4. Yards on corner lots

Corner lots shall be deemed to have no rear yards, but two front yards and two side yards. Through lots shall be deemed to have two front yards, and two side yards.



2-13.3.5. Side yards on regular lots

Side yards on regular lots are defined as extending from the required front yard line (setback line) to the required rear yard line. On regular through lots the required side yard shall run from the required front yard line to the second required front yard line. On corner lots the required side yards shall run from the point where side yard lines intersect, to the required front yard lines.

2-13.4. Irregular lots, dimensional requirements

An irregular lot, as defined herein, shall be required to meet the dimensional requirements of the district.

2-13.5. Irregular lots, yard requirements

All yards shall meet the yard requirements of the district.

2-13.6. Setback Measurement from streets

All setbacks from public streets shall be measured from the front property line, which is the same as the street line or the front right-of-way.

2-13.7. The depth of required yards adjacent to streets shall be measured perpendicular or radially to such street lines, and the inner line of such required yards shall be parallel to the outer line.

2-13.8 If no dedicated right-of-way exists, if no construction plans are approved for the road, or if less than the minimum right-of-way exists, the right-of way shall be assumed to be the edge of the existing travelway

2-13.9 For corner lots, the front lot line shall be deemed to be the shortest of the two (2) sides fronting on streets.

2-13.10 For corner lots, the side yard setback adjacent to the side street shall be not less than the average of the side and front setbacks required for the lot.

2-13.11 For corner lots, the lot width along the side street shall be in conformity with the minimum lot width requirements for the respective use.

**2-14 Lots and Yard Requirements** *[includes old 2-5 and 2-9]***2-14.1 Frontage Regulations.**

Except as provided elsewhere in this Ordinance with respect to townhouses, cluster developments, and Planned Unit Developments, no lot shall be used in whole or in part unless such lot abuts upon a public street in accord with the minimum frontage regulations of this Ordinance. No lot or parcel of land abutting the terminus of a public street shall be deemed to comply with the frontage regulations unless such lot abuts on an approved permanent cul-de-sac.

**2-14.2 Location on a Lot Required.**

Every building hereafter erected, reconstructed, converted, moved, or altered, other than accessory buildings as defined and other than townhouses, cluster developments, and Planned Unit Developments, shall be located on a lot of record and in no case shall there be more than one principal building on one lot unless otherwise provided for in this Ordinance. Uses otherwise provided for include multiple-family housing, commercial and office centers and complexes, industrial uses, and institutional complexes.

**2-14.3 Lot Access Requirements.**

All structures requiring a building permit shall be erected on lots which have frontage on a public road, unless otherwise specified or provided for herein, or in the Subdivision Ordinance.

**2-14.4. Definitions of Lots and Yards.**

All types of lots and yards shall be defined as provided in Articles 3 and 12 herein.

**2-14.5. Principal Use.**

Only one principal use or structure shall be permitted on a lot unless otherwise specifically provided for herein.

**2-14.6 Required yards and other areas.**

No part of a yard or other open space, area, or off-street parking or loading space, required in connection with any building or use for the purpose of complying with this Ordinance shall be included as part of a yard, open space area or off-street parking or loading space similarly required for any other building or use, unless otherwise specifically provided for in this

Ordinance.2-14.7. Reductions below minimum requirements of chapter.

No lot, area, or yard existing prior to the adoption of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth in this Ordinance. Any lot, area, or yard created after the adoption of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

**2-15 Relationship to Private Agreements**

This Ordinance is not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship, provided, however, that where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than such private agreements or legal relationships, the regulations of this Ordinance shall govern. The Town bears no responsibility for enforcing any private easements, covenants or other such agreements to which the Town is not a party.

**2-16 Conditional Zoning**

As part of a petition to rezone property and amend the official zoning maps, the property owner may include voluntary proffers in writing placing certain conditions and restrictions on the use and development of such property. If a petition to rezone is approved, the Zoning Administrator is vested with all necessary authority to administer and enforce such conditions and restrictions, all in accordance with Sections 15.2-2296 et seq., of the Code of Virginia, and such sections are incorporated herein as a part hereof to the same extent and purpose as though such sections were herein fully set out at length.

**2-17 Condominium Conversion *[new]***

In all zoning districts, a structure or use may convert to condominium ownership only if all requirements of this Ordinance, the Subdivision Ordinance, the comprehensive plan, and all other applicable ordinances are met.

**2-18 Encroachments in Required Yards ~~Setbacks~~**

The following features, and no others, may extend into required minimum yard areas, but only as qualified below.

2-18.1 Cornices, canopies, awnings, eaves, or other such similar feature, all of which are at least ten (10) feet above grade, may extend three (3) feet into any required setback but not nearer

to any lot line than a distance of two (2) feet. This provision shall not apply to permanent canopies over gasoline pump islands which have supports located on the pump island. Such canopies may extend into minimum required front yards, providing they do not overhang travel lanes or, if no travel lanes exist, they shall not be located closer than twenty-two (22) feet from the right-of-way line.

2-18.2 Sills, headers, belt courses, and similar ornamental features may extend twelve (12) inches into any required setback.

2-18.3 Open fire balconies, fire escapes, and fire towers may extend five (5) feet into any required setback.

2-18.4 Bay windows, oriel, balconies, and chimneys not more than ten (10) feet in width may extend three (3) feet into any required front or side setback, ten (10) feet into any required rear setback, but not nearer to any lot line than a distance of five (5) feet.

2-18.5 An outside stairway, unenclosed above and below its steps, may extend four (4) feet into any required side or rear setback, but not nearer to any side lot line than a distance of six (6) feet.

2-18.6 Decks may not project into any required front yard or side yard, but may project into rear yards by not more than one-half of the required rear yard setback, provided that no deck extends closer than 10 feet to any rear property line. Decks built within such encroachments may not be covered or enclosed. Decks or patios of a height of 18 inches or less as measured from the point of lowest grade are not subject to any setbacks.

2-18.7 Open fire escapes of noncombustible material may project into side or rear yards by not more than four (4) feet and be no closer to any property line than five (5) feet.

2-18.8 Front porches may project into any required front yard by not more than six feet into the required yard setback, not more than three feet into required side yard setback and into not more than ten feet into the required rear yard setback.

## **2-19 Fences and Walls**

2-19.1 Fences and walls may be erected up to a height of six (6) feet in all zoning districts, except for fences or walls that extend within the required front setback, unless otherwise restricted by the ARB within the Historic District. Within the area bounded by the front setback and the side lot lines, fences and walls shall not exceed four (4) feet in height, unless otherwise restricted by the provisions of this Ordinance. Excluded are walls or fences encompassing swimming pools or other uses which are required by law. ~~or prudent judgement, and approved by the Planning Director.~~

2-19.2 Fences along the side yard of a corner lot shall meet the side yard setback requirements.

2-19.3 In residential developments of five (5) or more dwelling units, fencing should be uniform throughout the development and shall be in accord with Article 8 of this Ordinance. ~~It is preferable to use plant materials for screening rather than opaque privacy fences.~~

2-19.4 Retaining Walls shall not exceed a height of six (6) feet in any zoning district.

~~2-7.3 For multifamily, commercial, and industrial uses, where new fencing would create a continuous surface greater than ten (10) feet in length, at least one evergreen shrub or tree shall be planted every ten (10) feet along the fence to soften its appearance.~~

## **2-20 Height Regulations** *[this was repeated in each district in the old Ordinance]*

Buildings may be erected up to thirty-five (35) feet in height except that:

- The height limit for dwellings may be increased up to forty-five (45) feet and up to three (3) stories provided that front, side, and rear yard setbacks increase one (1) foot for each additional foot of building height over thirty-five (35) feet.
- A public or semi-public building such as a school, church, or library may be erected to a height of sixty (60) feet from grade provided that required front, side, and rear yards shall be increased one (1) foot for each foot in height over thirty-five (35) feet.
- Church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles, and television antennae are exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.
- No accessory building which is within twenty (20) feet of any party lot line shall be more than fifteen (15) feet high. All accessory buildings shall be less than the main building in height.
- Height Regulations. No signs, nameplate, or advertising device of any kind shall be installed upon or attached to any chimney, tower, tank, or structure of like kind which is permitted to extend above the height limits of the district in which it is located. *[old 2-2]*

## **2-21 Obstruction to Vision at Intersections Prohibited** *[old 2-6]*

No shrubbery, sign, fence or other similar obstruction to vision between the heights of two and one half (2.5) and ten (10) feet from the ground level shall be permitted within the distance required to provide adequate sight distance to meet Virginia Department of Transportation requirements.

**2-22 Removal of Top Soil [see Erosion and Sediment Control] [old 2-8]**

The retention of adequate top soil on the land within the Town is considered necessary for the general welfare of the Town. The permanent removal of topsoil from the land within the Town shall be regulated, as set forth in Article 4, Erosion and Sediment Control. Urban Best Management Practices shall be utilized to stabilize disturbed areas and reduce runoff volumes and sedimentation. A land disturbance permit is required when disturbing or clearing an area in excess of 10,000 square feet for any purpose, including, but not limited to, borrow pits, ponds, and driveways. Land disturbance activities shall also be regulated as provided for under Erosion Control Regulation VR 625.02.00, adopted by the Virginia Soil and Water Conservation Board, effective September 13, 1990. Any and all future updates of the aforementioned section are also adopted as a part of this Ordinance.

**2-23 Districts Established**

For the purposes of this chapter, the Town is hereby divided into the following districts:

Regular (Base) Districts:

R-15	Residential District
R-10	Residential District
R-6	Residential District
RT	Residential Townhouse District
RMF	Residential Multifamily District
R-40	Residential District
R-E	Residential District
RO	Residential Office District
PSP	Public-Semi-Public Institutional District
<u>C</u>	<u>Commercial District</u> [CL and CG combined]
CBD	Central Business District
<u>LI</u>	<u>Limited Industrial District</u> (IL and IG combined)

Overlay and Special Districts:

FPD	Flood Plain District
PUD	Planned Unit Development District
HD	Historic District
<u>HCD</u>	<u>Historic Corridor District</u> [new]
<u>RID</u>	<u>Residential Infill District</u> [new]